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FILED
JAMES R. BROWNING, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1959.

No. 940

CRANE PACKING COMPANY, A CORPORATION, BETH BERNICE GREEN, INDIVIDUALLY AND AS EXECUTRIX OF EARL J. BULLARD, DECEASED, AND RONALD EUGENE GREEN AND JANIS LEANORE GREEN, MINORS, BY BETH BERNICE GREEN, THEIR NEXT FRIEND,

Petitioners,

vs.

SPITFIRE TOOL & MACHINE CO., INC., A CORPORATION,

Respondent.

RESPONDENT'S MEMORANDUM IN OPPOSITION TO THE MOTION OF AMERICAN PATENT LAW ASSOCIATION UNDER RULE 42.

CLARENCE E. THREEDY,
111 West Washington Street,
Chicago 2, Illinois,
Attorney for Respondent.

EDWARD C. THREEDY,
111 West Washington Street,
Chicago 2, Illinois,
Of Counsel for Respondent.

THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

IN THE

Supreme Court of the United States

OCTOBER TERM, 1959.

No. 940.

CRANE PACKING COMPANY, A CORPORATION, BETH BERNICE GREEN, INDIVIDUALLY AND AS EXECUTRIX OF EARL J. BULLARD, DECEASED, AND RONALD EUGENE GREEN AND JANIS LEANORE GREEN, MINORS, BY BETH BERNICE GREEN, THEIR NEXT FRIEND,

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SPITFIRE TOOL & MACHINE CO., INC., A CORPORATION,

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RESPONDENT'S MEMORANDUM IN OPPOSITION TO THE MOTION OF AMERICAN PATENT LAW ASSOCIATION UNDER RULE 42.

To the Honorable Chief Justices of the United States and the Associate Justices of the Supreme Court of the United States:

MAY IT PLEASE YOUR HONORS:

This is respondent's memorandum filed under Rule 42 of this Court with reference to the motion of the American Patent Law Association for leave to file a brief, *amicus curiae.*

I.

Respondent reproduces herewith letter of its attorneys, Threedy & Threedy, addressed to the American Patent Law Association on May 23, 1960 setting forth the reasons why said attorneys could not consent to the filing of a brief, *amicus curiae:*

THREEDY & THREEDY
ATTORNEYS AT LAW
111 West Washington Street
Chicago 2

May 23, 1960

American Patent Law Association
802 National Press Building
Washington 4, D. C.

Attention of Mr. William H. Webb, President

DEAR MR. WEBB:

Re: Crane Packing Company et al.
vs. Spitfire Tool & Machine Co., Inc.

Your letter of May 18, 1960 re the above subject matter is hereby acknowledged. After having given your letter very careful consideration, you are advised as follows:

Both members of this firm, Clarence E. Threedy and Edward C. Threedy, are members of the American Patent Law Association. It is our undivided opinion that to give the consent requested in your letter would place us in an embarrassing position, in that we would become parties (being members of the American Patent Law Association) to an amicus brief in which a position would be taken inconsistent with our position as attorneys for defendant-respondent. In other words, we would be put in a position where we would be taking diametrically opposite stands.

It may be that we are misinformed but it has always been our understanding as well as the understanding of many members of the Bar with whom we have conferred, that it was not the policy of the American Patent Law Association to take sides in a law suit to which it is not a party.

Very truly yours,

THREEDY & THREEDY

By CLARENCE E. THREEDY

CET:KY

II.

It is respectfully submitted that the motion in question fails to comply with Rule 42, Paragraph 3, of this Court, requiring that such a motion set forth not only the nature of applicant's interest but also

> "* * * reasons for believing that they [facts or questions of law] will not adequately be presented by the parties, and their relevancy to the disposition of the case; * * *"

The moving party has further failed to comply with Rule 42 of this Court, in that instead of filing a brief in support of the motion, the brief is directed to the merits of the case and is merely a repetition of the argument submitted by petitioners in support of their reasons for allowance of the writ of certiorari.

CONCLUSION.

It is respectfully submitted that the motion should be denied.

Respectfully submitted,

SPITFIRE TOOL & MACHINE CO.,
Respondent,

By CLARENCE E. THREEDY,
Its Attorney.

EDWARD C. THREEDY,
Of Counsel for Respondent.